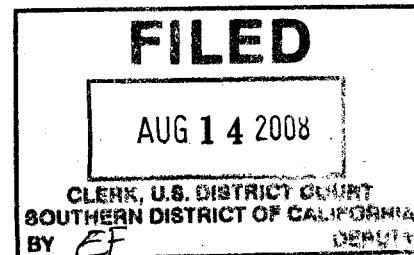


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9
10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MARTINA DOLORES MURILLO,

Defendant.

Magistrate Case No. 08MJ8682
08CR2754-DMS

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

16 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Fred
18 Sheppard, Assistant United States Attorney, and defendant MARTINA DOLORES MURILLO, by
19 and through and with the advice and consent of defense counsel, Leila W. Morgan, that:

20 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
21 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
22 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
23 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
24 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
25 § 1324(a)(1)(A)(i) and (v)(II).

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FAS:mg

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 2 provide the signed, original plea agreement to the Government not later than five business days
 3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
 5 before September 3, 2008.

6 4. The material witness, Guadalupe Galindo-Gonzalez, in this case:
 7 a. Is an alien with no lawful right to enter or remain in the United States;
 8 b. Entered or attempted to enter the United States illegally on or about
 9 July 31, 2008;
 10 c. Was found near the international border with Mexico and was being guided
 11 by defendant, and defendant knew of the fact that she was an alien with no lawful right to enter or
 12 remain in the United States;
 13 d. Was paying \$1,800 to others to be brought into the United States illegally
 14 and/or transported illegally to their destination therein; and,
 15 e. May be released and remanded immediately to the Department of Homeland
 16 Security for return to her country of origin.

17 5. After the material witness is ordered released by the Court pursuant to this stipulation
 18 and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or
 19 thereafter withdraws *her* guilty plea to that charge, defendant agrees that in any proceeding,
 20 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

21 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
 22 substantive evidence;
 23 b. The United States may elicit hearsay testimony from arresting agents
 24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
 25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
 26 of (an) unavailable witness(es); and,

27 //

28 Stipulation of Fact and Joint Motion for Release of
 Material Witness(es) And Order Thereon in
 United States v. Martina Dolores Murillo

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.

Respectfully submitted,

~~KAREN P. HEWITT
United States Attorney~~

FRED SHEPPARD
Assistant United States Attorney

LEILA W. MORGAN
Defense Counsel for Martina Dolores Murillo

~~MARTINA DOLORES MURILLO~~
Defendant

**Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Martina Dolores Murillo**

ORDER

2 Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to her country of origin.

6 SO ORDERED.

7 Dated: 8-14-08

United States Magistrate Judge